

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re reissue application of:	§	Attorney Docket No.
Bryan et al.	§	31132.59 / PC904.03
	§	
Application No.: 09/776,394	§	Customer No. 46333
	§	
Filed: February 2, 2001	§	Group Art Unit: 3774
	§	
For: Human Spinal Disc Prosthesis	§	Examiner: Stewart, Alvin J.

Mail Stop Amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO OFFICE ACTION OF OCTOBER 8, 2010

Claims 1-3, 12, 14, and 36-45 are allowed in the application. Claims 36, 38, and 39 stand rejected for double patenting only. Claims 37, 40, and 41 are objected to as depending from rejected claims.

Nonstatutory Double Patenting Rejection

The Office Action provisionally rejected claims 36, 38, and 39 on the grounds of nonstatutory obviousness-type double patenting in view of claim 13 of copending Application No. 10/713,837 (the '837 application). Applicants have filed, on the same date as this paper, a Terminal Disclaimer in the '837 application. The Terminal Disclaimer in the '837 application overcomes the rejection here because the rejection was provisional. Accordingly, Applicants respectfully request that the provisional rejection be withdrawn.

Reissue Oath/Declaration

In a telephone discussion with the Examiner on January 7, 2011, the Examiner indicated that a new Supplemental Oath or Declaration was not required. Accordingly, Applicants respectfully request that the Office issue a Notice of Allowance.